

FILED

NOT FOR PUBLICATION

MAR 14 2006

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

SHING-TING YAO,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-75726

Agency No. A28-776-567

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted March 8, 2006**

Before: CANBY, BEEZER, and KOZINSKI, Circuit Judges.

Shing-Ting Yao, a native and citizen of the People's Republic of China,
petitions for review of the Board of Immigration Appeals' ("BIA") decision

* This disposition is not appropriate for publication and may not be cited to or
by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral
argument. *See* Fed. R. App. P. 34(a)(2).

summarily affirming an immigration judge's ("IJ") order denying his motion to reopen deportation proceedings conducted in absentia. We have jurisdiction under 8 U.S.C. § 1252. We review for abuse of discretion, *Singh v. INS*, 213 F.3d 1050, 1052 (9th Cir. 2000), and we grant the petition for review and remand for further proceedings.

The IJ denied reopening on the ground that Yao had received proper notice. We remand to the agency to consider Yao's argument, presented in his brief to the BIA, that the Postal Service delivered his hearing notice to an incorrect address. "We have long held that the BIA abuses its discretion when it fails to provide a reasoned explanation for its actions." *Movsisian v. Ashcroft*, 395 F.3d 1095, 1098 (9th Cir. 2005); *Sagaydak v. Gonzales*, 405 F.3d 1035, 1040 (9th Cir. 2005) (holding that "[t]he BIA is not free to ignore arguments raised by a petitioner").

PETITION FOR REVIEW GRANTED; REMANDED.